

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CARLOS ABREU,

Plaintiff,

-v-

9:17-CV-1312
(DNH/DEP)

JAMES F. DONAHUE, Deputy Superintendent
for Mental Health Services, Marcy Correctional
Facility; JUSTIN J. THOMAS, Superintendent,
Marcy Correctional Facility; ALFRED J.
MAUNZ, Sergeant, Marcy Correctional
Facility; GREGORY D. MAYO, Correction
Officer; SEAN P. WIGGINS, Correction
Officer, Marcy Correctional Facility;
MR. RUSSO, Social Worker,

Defendants.

APPEARANCES:

CARLOS ABREU
Plaintiff, Pro Se
99-A-3027
Great Meadow Correctional Facility
Box 51
Comstock, NY 12821

HON. LETITIA JAMES
Attorney General for the State of New York
Attorney for Defendants
The Capitol
Albany, NY 12224

ERIK BOULE PINSONNAULT, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Carlos Abreu brought this civil rights complaint pursuant to 42 U.S.C. § 1983. On October 4, 2018, the Honorable David E. Peebles, United States Magistrate Judge, advised by Report-Recommendation that defendants' unopposed motion to dismiss be granted in part and denied in part. Magistrate Judge Peebles recommended that plaintiff's remaining Eighth Amendment conditions of confinement claim be dismissed but that the motion otherwise be denied. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

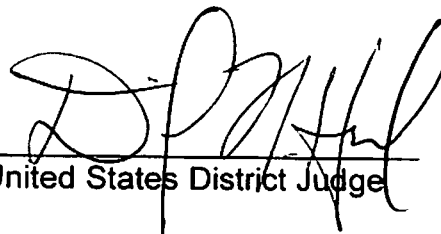
Therefore, it is

ORDERED that

1. Defendants' motion to dismiss is GRANTED in part and DENIED in part;
2. Plaintiff's remaining Eighth Amendment conditions of confinement claim is DISMISSED; and
3. The motion is denied as to all other remaining claims and those claims shall proceed.

IT IS SO ORDERED.

Dated: February 5, 2019
Utica, New York.


United States District Judge